



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 18, 1996

Ms. Cheryl N. Elliott
General Counsel
Texas Southern University
3100 Cleburne Avenue
Houston, Texas 77004

OR96-2422

Dear Ms. Elliott:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102749.

Texas Southern University (the "university") received a request for four categories of information pertaining to faculty appointments and raises in the College of Pharmacy and Health Sciences ("COPHS"). You contend that the "standard merit evaluation forms for each [COPHS] faculty member that were used by Department Chairs to tabulate merit points for 1996-97 raises and the merit raises for each faculty person" should be excepted from required public disclosure under section 552.102 of the Government Code.¹

Section 552.102 protects "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The protection of section 552.102 is the same as that of the common-law right to privacy under section 552.101. *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.). For information to be protected from public disclosure under the common-law right of privacy under section 552.101, the information must meet the criteria set out in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1. Having reviewed the information at issue, we find no information which is highly intimate and embarrassing to a person of ordinary sensibilities. Moreover, there is a legitimate public interest in the salary and job performance of public employees. See Open Records Decision No. 455 (1987). Consequently, we conclude that you may not withhold the requested information under section 552.102 of the Government Code.

¹As you raise no objections to the other three categories of information requested, we assume that the information has been or will be provided to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/RTR/ch

Ref.: ID# 102749

Enclosures: Submitted documents

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